

Message Text

LIMITED OFFICIAL USE

PAGE 01 STATE 063984
ORIGIN OES-06

INFO OCT-01 EUR-12 ISO-00 CIAE-00 DODE-00 PM-04 H-01
INR-07 L-03 NSAE-00 NSC-05 PA-01 PRS-01 SP-02
SS-15 USIA-06 CG-00 COME-00 EB-08 DLOS-06 DOTE-00
SAL-01 /079 R

DRAFTED BY OES/OFA:JCPRICE/EUR:SALISBURY:MAC

APPROVED BY OES/OFA:ALZUCCA

L/OES:DCOLSON

EUR/MR.LOWENSTEIN

L/EUR:DGANTZ

-----230348Z 048264 /67

P R 230045Z MAR 77

FM SECSTATE WASHDC

TO USMISSION EC BRUSSELS PRIORITY

INFO AMEMBASSY BRUSSELS

AMEMBASSY COPENHAGEN

AMEMBASSY PARIS

AMEMBASSY ROME

AMEMBASSY BONN

AMEMBASSY DUBLIN

AMEMBASSY LUXEMBOURG

AMEMBASSY THE HAGUE

AMEMBASSY LONDON

LIMITED OFFICIAL USE STATE 063984

E.O. 11652: N/A

TAGS: EEC, PLOS, EFIS, US

SUBJECT: STATUS OF EC PROCEDURES TO PUT GIFA INTO FORCE

REF: EC BRUSSELS 02661

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 STATE 063984

1. SUMMARY. FOLLOWING IS DEPARTMENT BACKGROUND AND
SUGGESTED TALKING POINTS FOR USE IN RESPONDING TO
GALLAGHER. DEPARTMENT DOES NOT HAVE LEGAL AND POLITICAL
FLEXIBILITY TO DEVISE INTERIM SOLUTION WHICH WOULD PERMIT
EC FISHING IN U.S. ZONE PRIOR TO ENTRY INTO FORCE OF GIFA.
IN ADDITION, FIRST PART OF SQUID SEASON WILL CLOSE
MARCH 31, AND LATEST NMFS SURVEILLANCE DATA INDICATES

THAT ITALY HAS ALREADY EXCEEDED MAJOR COMPONENT OF 1977 SQUID ALLOCATION. END SUMMARY.

2. ISSUE OF NATURE AND TIMING OF EC INTERNAL ARRANGEMENTS REGARDING GIFA HAS BEEN A LONG-STANDING SUBJECT OF DISCUSSION BETWEEN U.S. AND EC FISHERY NEGOTIATORS.

QUESTION OF EC QUOTE MANDATE UNQUOTE TO (A) SIGN AND (B) CARRY OUT A GIFA WAS AMONG THE FIRST DISCUSSED WITH COMMUNITY OFFICIALS LAST YEAR. DURING BRUSSELS TALKS LAST NOVEMBER, EC NEGOTIATORS TOLD US (SEE EC BRUSSELS 11053, NOVEMBER 10, 1976) THAT QUOTE CONCLUSION OF AGREEMENT WOULD BE AFTER APPROVAL BY MEMBER STATES IN

THE COUNCIL AND... WOULD INDICATE COMPLETION OF THOSE INTERNAL PROCEDURES NECESSARY TO PUT AGREEMENT INTO FORCE, BIND MEMBER STATES AND ASSURE COMPLIANCE BY COMMUNITY UNQUOTE. EC OFFICIALS QUOTE TOOK PAINS TO ASSURE US DEL THAT THE NECESSARY INTERNAL INSTRUMENTS WOULD BE DRAFTED PROMPTLY, AND SUGGESTED THAT MEMBER STATE APPROVAL OF THEM IN ACCORDANCE WITH EC PROCEDURES WOULD NOT BE UNDULY TIME-CONSUMING UNQUOTE.

3. ON BASIS OF SUCH ASSURANCES, WE WERE SATISFIED THAT EC COUNCIL'S ISSUANCE OF FULL POWERS TO SIGN, DATED FEBRUARY 14, 1977, WAS SUFFICIENT MANDATE FOR COMMUNITY SIGNATURE. THOSE FULL POWERS FROM THE EC COUNCIL STIPULATE THAT QUOTE THE COUNCIL, UPON COMPLETION OF THE INTERNAL PROCEDURES FOR THE CONCLUSION OF THE AGREEMENT, RESERVES THE RIGHT TO APPROVE AND CONCLUDE (THE AGREEMENT LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 STATE 063984

MENT) UNQUOTE, THUS MAKING CLEAR THAT THE GIFA WILL NOT BE CONCLUDED IN THE EYES OF THE COMMUNITY UNTIL AFTER COMPLETION OF INTERNAL PROCEDURES AND A FINAL REVIEW BY THE COUNCIL. ARTICLE XVI OF THE GIFA, IN A FORMULATION FIRST PROPOSED BY THE U.S. AND SUBSEQUENTLY CONTAINED IN THE COMMUNITY'S OWN COUNTER-DRAFT OF OCTOBER 15, 1976 (TEXT IN LUXEMBOURG 00992, OCTOBER 20, 1976), STATES EXPLICITLY THAT THE GIFA WILL COME INTO FORCE UPON EX-CHANGE OF DIPLOMATIC NOTES INDICATING THAT THE NECESSARY INTERNAL PROCEDURES ON BOTH SIDES HAVE BEEN COMPLETED. U.S. AGREED THAT RECEIPT OF SUCH A NOTE FROM THE COMMUNITY WULD BE ACCEPTED ON ITS FACE, LEAVING TO THE EC THE DETERMINATION OF WHAT INTERNAL PROCEDURES WITHIN THE COMMUNITY IT CONSIDERED NECESSARY. SATISFACTION ON POINTS IN THIS AND PRECEDING PARAGRAPH ENABLED DEPARTMENT TO TESTIFY BEFORE THE U.S. CONGRESS ON FEBRUARY 22, 1977 (STATE 47197) THAT QUOTE IN FORM AND CONTENT THE COMMUNITY AGREEMENT IS LIKE ALL THE OTHERS... THERE IS NOTHING UNUSUAL ABOUT THE AGREEMENT WITH THE COM-

MUNITY UNQUOTE.

4. ON MARCH 4, 1977 (STATE 51023), WE FORMALY NOTIFIED THE COMMUNITY THAT U.S. INTERNAL PROCEDURES HAD BEEN COMPLETED AND THAT THE GIFA WOULD BY ITS TERMS ENTER INTO FORCE UPON CONFIRMATION BY THE COMMUNITY THAT ITS OWN INTERNAL PROCEDURES HAD ALSO BEEN COMPLETED. REFTEL INDICATES THAT NEITHER THE NECESSARY EC INTERNAL PROCEDURES -- WHATEVER THE COMMUNITY DECIDES THOSE ARE -- NOR THE FINAL COUNCIL REVIEW STIPULATED IN THE COUNCIL'S GRANT OF FULL POWERS HAVE BEEN CONCLUDED. NEITHER THE FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976, NOR THE GIFA PROVIDE FOR PROVISIONAL ENTRY INTO FORCE, NOR FOR THE GRANTING OF PERMITS TO THOSE WHO ARE NOT YET

GIFA QUOTE PARTIES UNQUOTE UPON RECEIPT OF QUOTE MORAL ASSURANCES UNQUOTE THAT CERTAIN OF THE GIFA'S OBLIGA- LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 04 STATE 063984

TIONS WILL BE UNDERTAKEN.

5. THE PRACTICAL EFFECT OF GIFA ENTRY-INTO-FORCE ON POST-MARCH 1 FISHING BY EC MEMBER STATE VESSELS WAS DISCUSSED WITH GALLAGHER AND HARDY DURING THE FEBRUARY 3-4, 1977 TALKS IN WASHINGTON. THE U.S. SIDE SET FORTH OUR TIME ESTIMATE FOR COMPLETION OF U.S. INTERNAL PROCEDURES, AND ASKED THE EC SIDE TO DO THE SAME. GALLAGHER AND HARDY RESPONDED THAT THE MATTER HAD NOT BEEN FULLY THOUGHT OUT WITHIN THE COMMUNITY, AND SUGGESTED A NUMBER OF POSSIBILITIES INCLUDING A QUOTE WORST CASE UNQUOTE ANALYSIS INVOLVING CONSULTATION WITH THE EUROPEAN PARLIAMENT WHICH THEY SAID COULD TAKE A TOTAL OF 3-4 MONTHS. THEY SAID, HOWEVER, THAT THEY DID NOT CONSIDER THIS A PRACTICAL PROBLEM FOR THE COMMUNITY, SINCE IT WAS THEIR UNDERSTANDING THAT EC MEMBER STATE VESSELS WOULD NOT BEGIN THEIR NORMAL FISHING IN THE U.S. ZONE UNTIL THE SUMMER. WHEN THE U.S. SIDE POINTED OUT THAT OUR INFORMATION WAS THAT SOME ITALIAN VESSELS WOULD NORMALLY BE FISHING FOR SQUID IN OUR ZONE AFTER MARCH 1, EC NEGOTIATORS REGISTERED SOME SURPRISE AND SAID THAT THEY (REPEAT THEY) WOULD HAVE TO LOOK INTO THIS IN ORDER TO QUOTE EXPEDITE UNQUOTE THE INTERNAL EC PROCEDURES FOR BRINGING THE GIFA INTO FORCE.

6. MISSION HAS DISCRETION TO USE PARAS 2-5 ABOVE AS BACKGROUND WITH COMMISSION OFFICIALS, AND IS REQUESTED TO MAKE THE FOLLOWING POINTS IN RESPONSE TO GALLAGHER'S REFTEL REQUEST:

-- THE U.S. CONTINUES IN ITS DESIRE TO APPROACH THE

ISSUE OF FISHING BY EC MEMBER STATE VESSELS IN THE U.S. FISHERIES ZONE IN A COOPERATIVE AND FORTHCOMING MANNER, AND IN THE CONTEXT OF OUR OVERALL CLOSE RELATIONS WITH THE COMMUNITY.

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 05 STATE 063984

-- NEVERTHELESS, THE PROVISIONS OF THE U.S. FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976, AND OF THE US/EC GIFA APPROVED UNDER THE AUTHORITY OF THAT ACT ON MARCH 1, 1977, APPEAR UNAMBIGUOUS IN REQUIRING THAT (A) FISHING PERMITS FOR MEMBER STATE VESSELS CAN ONLY BE ISSUED PURSUANT TO A VALID GIFA IN FORCE, AND (B) THE US/EC GIFA CAN ONLY BE BROUGHT INTO FORCE BY AN EXCHANGE OF DIPLOMATIC NOTES CERTIFYING THAT RESPECTIVE INTERNAL ARRANGEMENTS HAVE BEEN COMPLETED.

-- SUCH EXCHANGES OF NOTES HAVE BEEN ACCOMPLISHED WITH ALL PARTIES TO GIFAS SIGNED THUS FAR, WITH THE EXCEPTION OF ROMANIA (WHICH HAS NOT YET RESPONDED TO OUR NOTE BUT WHICH DOES NOT NORMALLY FISH UNTIL THE FALL SEASON). IN THE CASE OF JAPAN, A DUAL PROCEDURE WAS USED BECAUSE OF DELAYS IN ITS DOMESTIC LEGISLATIVE APPROVAL PROCEDURE WHICH THE JAPANESE GOVERNMENT CLEARLY IDENTIFIED AT THE BEGINNING OF OUR NEGOTIATIONS. TWO GIFA AGREEMENTS WERE CONCLUDED -- AN EXCHANGE OF NOTES APPLICABLE FOR 1977 ONLY, WHICH COULD ENTER IMMEDIATELY INTO FORCE FOR JAPAN, AND A LONG-TERM GIFA WHICH MUST BE APPROVED BY BOTH THE U.S. CONGRESS AND JAPANESE DIET IF JAPAN IS TO FISH AFTER DECEMBER 31, 1977. AFTER CLEARLY INDICATING ITS CONCERN WITH THE FORM OF THE GIFA FOR 1977, CONGRESS APPROVED IT ON MARCH 3, 1977. IMPORTANTLY, WHILE SHORTER THAN THE LONG-TERM AGREEMENT, THE 1977 JAPANESE AGREEMENT IS A GIFA NONTHELESS -- NO OTHER TYPE OF BILATERAL AGREEMENT AS A FRAMEWORK FOR FOREIGN FISHING IS ACCEPTABLE UNDER THE ACT. AMENDMENT OF THE SIGNED EC GIFA, AND RENEGOTIATION OF A SEPARATE GIFA FOR AN INTERIM PERIOD, INCLUDING APPROPRIATE REGIONAL COUNCIL COORDINATION AND CONGRESSIONAL APPROVAL WOULD INVOLVE MANY MONTHS OF COMPLEX NEGOTIATIONS AND PROBABLY PROHIBITIVE POLITICAL COSTS.

-- OUR INFORMATION IS THAT ITALIAN VESSELS HAD FOR ALL
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 06 STATE 063984

PRACTICAL PURPOSES ALREADY TAKEN THEIR 1977 QUOTA BEFORE

MARCH 1. LATEST ESTIMATES FROM NMFS INDICATE A SUB-STANTIALLY OVERFISHED LOLIGO SQUID QUOTA, WITH CATCHES OF 2,148 MT AGAINST ALLOCATION OF 1,640 MT, AND CATCHES OF 55 MT OF ITALY'S 980 MT ILLEX SQUID QUOTA. IN ADDITION, THE SQUID FISHERY AREAS (WINDOWS) CLOSE MARCH 31, AND WILL NOT REOPEN UNTIL JUNE-SEPTEMBER PERIOD. THIS SUGGESTS THAT AN INTERIM PROCEDURE WOULD IN ANY EVENT NOT BE WARRANTED AS A PRACTICAL FISHERIES SOLUTION.

-- WE SHARE THE COMMISSION'S REGRET THAT THE COMMUNITY'S INTERNAL PROCEDURES FOR BRINGING THE GIFA INTO EFFECT AND PERMITTING OUR PROCESSING OF APPLICATIONS FROM MEMBER STATE VESSELS HAVE NOT YET BEEN CONCLUDED. WE ARE RELIEVED BY COMMISSION ASSURANCES THAT THESE STEPS WILL HAVE BEEN COMPLETED WELL BEFORE VESSELS OF THE FEDERAL REPUBLIC OF GERMANY AND FRANCE NORMALLY WOULD EXPECT TO COMMENCE FISHING OPERATIONS IN THE U.S. ZONE LATER THIS YEAR. WE ARE PREPARED TO PROCESS THOSE APPLICATIONS EXPEDITIOUSLY AS SOON AS WE ARE NOTIFIED THAT THE GIFA HAS ENTERED INTO FORCE FOR THE COMMUNITY.

VANCE

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptoning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: POLICIES, LAW OF THE SEA, BRIEFING MATERIALS, FISHING LIMITS, FISHING AGREEMENTS, TREATY ENTRY INTO FORCE
Control Number: n/a
Copy: SINGLE
Sent Date: 23-Mar-1977 12:00:00 am
Decapton Date: 01-Jan-1960 12:00:00 am
Decapton Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977STATE063984
Document Source: CORE
Document Unique ID: 00
Drafter: JCPRICE/EUR:SALISBURY:MAC
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D770098-0908
Format: TEL
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t19770330/aaaaazxm.tel
Line Count: 245
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 0a92aab3-c288-dd11-92da-001cc4696bcc
Office: ORIGIN OES
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 5
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 77 EC BRUSSELS 2661
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 29-Nov-2004 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 3022236
Secure: OPEN
Status: NATIVE
Subject: STATUS OF EC PROCEDURES TO PUT GIFA INTO FORCE
TAGS: PLOS, EFIS, US, EEC
To: EC BRUSSELS
Type: TE
vdkgvgwkey: odbc://SAS/SAS.dbo.SAS_Docs/0a92aab3-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009